| 1 | THE LAW OFFICES OF RANDOLPH H. GOLD | DBERG |
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| 2 | RANDOLPH H. GOLDBERG, ESQ. BAR NO. 5970 | |
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| 4 | Las Vegas, NV 89119 | |
| | (702) 735-1500 | |
| 5 | Fax: (702) 735-0505 Attorney for Debtor(s) | |
| 6 | · · · | NUZDVIDTON COLIDT |
| 7 | UNITED STATES BAI DISTRICT O | |
| 8 | In re: | Chapter 13 Proceedings |
| 9 | M.C. | Case No.: 09-20634-BAM |
| 10 | JESSE PECKHAM | |
| | Debtor(s). | Date: 8/13/2009 |
| 11 | | Time: 3:30 PM |
| 12 | | |
| 13 | MOTION TO VALUE COLLATERAL, | "STRIP OFF" AND MODIFY RIGHTS |
| 14 | OF US BANK (SECOND M | ORTGAGE) PURSUANT |
| 15 | <u>TO 11 U.S.C. §50</u> | 6(a) AND §1322 |
| 16 | Comes Now the Debtor, JESSE PECKHA | AM (hereinafter the "debtor"), by and through |
| 17 | THE LAW OFFICES OF RANDOLPH H. GOLD | OBERG, and respectfully moves this Court |
| 18 | pursuant to 11 U.S.C. §506(a), and §1322, and Ba | inkruptcy Rules 3012 and 9014. |
| 19 | | |
| 20 | STATEMENT | r of facts |
| 21 | 1. Debtor filed the instant Chapter 13 | , Case Number 09-20634 on JUNE 19, |
| 22 | 2009. | |
| 23 | | and weat area of the second of 6008 WHITE |
| 24 | | ned real property located at 6908 WHITE |
| 25 | TATZEC AMENITE LACMECAS NEVADA 80 | 130 (hereinafter the "Subject Property"). |
| 26 | 3. Debtors have obtained a residentia | l appraisal that places the value of the subject |
| 27 | property at \$163,000.00. | |
| 28 | · | |

4. At the time of filing the instant petition, the Subject Property was subject to the following liens:

US BANK HOME MORTGAGE (First Mortgage): \$216,472.00

US BANK (Second Mortgage): \$55,041.00

- 5. Therefore, on the date the instant bankruptcy was filed, no equity existed in the Subject Property above the claims of **US BANK**.
- 6. US BANK claim was wholly unsecured on the petition date and if the Subject Property was sold at auction US BANK would receive nothing.
- 7. Accordingly, the debtor requests that Your Honor find that **US BANK's** claim is unsecured and should be reclassified as a general unsecured claim to receive pro rata with other general unsecured creditors through the debtor's chapter 13 plan.

LEGAL ARGUMENT

In *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the Court stated that a wholly unsecured lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court held:

Section 506(a) divides creditors' claims into "secured...claims" and "unsecured claims." Although the conventional interpretation of "secured" might include any claim in which the creditor has a security interest in the debtor's property, §506(a) makes clear that the status of a claim depends on the valuation of the property. An allowed claim of a creditor secured by a lien on property in which the estate has an interest ... is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property ... and is an unsecured claim to the extent that the value of such creditor's interest ... is less than the amount of such allowed claim. To put it more simply, a claim such as a mortgage is not a "secured claim" to the extent that it exceeds the value of the property that secures it. Under the Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is

secured by a lien on property will be considered a "secured claim." Here, it is plain that **US BANK's** claim for the repayment of its loan is an unsecured claim, because its deed of trust is junior to the first deed of trust, and the value of the loan secured by the first deed of trust is greater than the value of the house.

Accordingly, since US BANK's second mortgage claim is wholly unsecured (in that there is no extant equity above the first mortgage in the Subject Property), the claim should be reclassified by this Court as a general unsecured claim and share in whatever pro rata distribution is being received. US BANK should also be stripped of its secured rights under Nevada State Law since no maintainable security interest in the subject property exists.

Furthermore, the Debtor is not required to file an adversary proceeding to strip the lien of its secured status. Debtor may "strip off" US BANK's consensual lien by motion. See In re Williams, 166 B.R. 615 (Bankr.E.D.Va.1994), In re Fuller, 255 B.R. 300 (Bankr.W.D.Mich.2000), In re Hoskins, 262 B.R. 693 (Bankr.E.D.Mich.2001), In re King, 290 B.R. 641 (Bankr.C.D.Ill. 2003), In re Millspaugh, 302 B.R. 90 (Bankr.D.Idaho 2003), Dickey v. Ben. Fin. (In re Dickey) 293 B.R. 360 (Bankr.M.D.Pa.2003), In re Hill, 304 B.R. 800 (Bankr.S.D.Ohio 2003); In re Sadala 294 B.R. 180 (Bankr.M.D.Fla.2003), In re Fisher, 289 B.R. 544 (Bankr.W.D.N.Y.2003), In re Robert, 313 B.R. 545 (Bankr.N.D.N.Y.2004), In re Bennett, 312 B.R. 843 (Bankr.W.D.Ky.2004).

CONCLUSION

Debtors respectfully request that the court:

- 1. Determine that the first mortgage on the subject property exceeds the value;
- 2. Determine that the **US BANK second** mortgage claim is a wholly unsecured claim and strip the lien from the subject property pursuant to 11 U.S.C. Section 506(a);

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3. Reclassify the secured claim filed by **US BANK** as a general unsecured claim to be paid pro rata in the general unsecured pool of Debtor's Chapter 13 Plan.

4. For such other and further relief which the Court deems just and proper.

DATED this _____ of ______, 2009.

THE LAW OFFICES OF RANDOLPH H. GOLDBERG

By: /s/RANDOLPH GOLDBERG/s/ RANDOLPH H. GOLDBERG, ESQ. 4000 S. Eastern Avenue, Suite 200 Las Vegas, Nevada 89119 Attorney for Debtor(s)

Residential Appraisal Report

Of

Single Family Residence at

6908 White Lakes Avenue Las Vegas, NV 89130

For

Randolph H. Goldberg, Esq. P.C. 4000 S. Eastern Avenue, Suite 200 Las Vegas, NV 89119

As of

6/03/09

Exterior-Only Inspection Residential Appraisal Report

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| | | HAM, JESS | | Intended I I | lear RA | NKRLI | PTCY A | TTORNEY | / IIIID | GE/C | OURT Coun | tv | Clark | |
| | | | | | | MICHOL | 1017 | CI I OICITE I | 300 | <u> </u> | CONT COUNT | • • | Oldik | |
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| | Client Randolph H. (| | | | | | | | | | | | / 89 <u>119</u> | |
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Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 FiiP\\ eqe^1\(p\ \ eqe^1\) የመያር 17 Entered 07/09/09 13:16:39 Exterior-Only Inspection Residential Appraisal Report 105,900 241,000 to\$ comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 114,000 to\$ 299,900 There are 45 COMPARABLE SALE # 2 COMPARABLE SALE #3 COMPARABLE SALE #1 **FEATURE** SUBJECT 6908 White Lakes Avenue 6813 Rancho Santa Fe Drive 5629 Grand Entries Drive 7205 London Bridge Avenue Las Vegas, NV 89130 <u>Las Vegas, NV 8</u>9130 Las Vegas, NV 89130 Las Vegas, NV 89130 0.72 mile NW 0.21 mile SSE 0.48 mile NW Proximity to Subject N/A 163,000 \$ \$ 161,000 \$ Sale Price 77.55 sq. ft. 94.85 Sale Price/Gross Liv. Area N/A sq. ft. 89.41 sq. ft. sq. ft. Data Source(s) MLS/County Records MLS/County Records MLS/County Records Verification Source(s) +(-) \$ Adjustment DESCRIPTION DESCRIPTION DESCRIPTION +(-) \$ Adjustment VALUE ADJUSTMENTS DESCRIPTION +(-) \$ Adjustmen FHA FHA FHA Sale or Financing No Concessions No Concessions No Concessions Concessions COE 3/26/09 COE 3/27/09 Closed Date of Sale/Time COE 2/26/09 Closed Closed **Grand Entries Grand Entries** Location Rancho Santa FeRancho Santa Fe Fee Simple Leasehold/Fee Simple Fee Simple Fee Simple Fee Simple 5.295 sf/Ava 4,815 sf/Avg. 4,500 sf/Avg Site 4,725 sf/Avg Residential Residential View Residential Residential 2 sty/Traditional 2 sty/Traditional 2 sty/Traditional 2 sty/Traditional Design (Style) Quality of Construction Average **Average** Average Average 13 years Actual Age 14 years 15 years 14 years Good Good Condition Good Good Above Grade Total Bdrms. Baths Total Bdrms. Baths Total Bdrms Baths Total Bdrms Baths 4 2.50 7 4 2.50 4 2.50 4 2.50 8 7 Room Count 2,076 -4,000 1,708 sq. ft. Gross Living Area 1.823 1.823 sq. ft. sq. ft. sq. ft N/A Basement & Finished N/A N/A N/A +2,000 Pool & Spa Pool / No Spa +2,000 Pool & Spa Pool / No Spa Rooms Below Grade Average Average Average Average **Functional Utility** FWA/Refrigtn. FWA/Refrigtn. FWA/Refrigtn. Heating/Cooling FWA/Refrigtn. Typical Energy Efficient Items Typical Typical Typical Garage-2 Garage-2 Garage-2 Garage/Carport Garage-2 +1,500 Similar Porch&Patio Inferior Similar Porch/Patio/Deck -1,500 1 Fireplace -1,500 No Fireplace Fireplace No Fireplace +4,000 Inferior Ldscp&Onsites Similar Similar +2,500 Similar Inferior Upgrds&Feats Similar 1,000 X + 1 2,000 X + -2.000 $+\Box$ Net Adjustment (Total) Adjusted Sale Price Net Adi: 1% Net Adj: 1% Net Adj: 1% SHIVS 162,000 164,000 165,000 Gross Adj: 1% Gross Adi: 7% Gross Adj: 3% of Comparables I X did did not research the sale or transfer history of the subject property and comparable sales. If not, explain My research did X did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal. Data source(s) MLS, County Records My research X did did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale. Data source(s) MLS, County Records Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3). COMPARABLE SALE#3 COMPARABLE SALE #1 COMPARABLE SALE # 2 SUBJECT ITEM 6/30/08 1/05/09 10/30/08 Date of Prior Sale/Transfer No sales during \$198,618 \$125,020 Price of Prior Sale/Transfer the previous 3 years No Amount Recorded County Records Data Source(s) MLS, County Records MLS, County Records County Records 6/03/09 6/03/09 6/03/09 Effective Date of Data Source(s) 6/03/09 Analysis of prior sale or transfer history of the subject property and comparable sales No prior sales or transfers are noted for the subject property during the previous 3 years. Sale #1's prior sale on 1/05/09 represents a FNMA trust deed recording involving a bank foreclosure/take-back sale; however, no dollar amount was recorded. Sale #2's prior sale for \$125,020 on 10/30/08 represents a trust deed foreclosure sale and appears to be below market levels at the time of sale. Sale #3's prior sale for \$198,618 on 6/30/08 represents a trust deed foreclosure sale and appears to be above market levels at the time of sale. Summary of Sales Comparison Approach Sale #1 is a bank foreclosure/liquidation type sale of the same floor plan as compared to s ci in İ RECONCILIATION

| e subject which is located from within the subject's subdivision by observation from the street and County Assessor records. |
|---|
| ale #2 and Sale #3 are bank foreclosure/liquidation type sales of a similar, substitute type properties as compared to the |
| ubject which are located in nearby competing subdivisions from within the subject's immediate neighborhood. All sales |
| ted are deemed to appeal to the same general market segment/user group from within the subject's subdivision and |
| nmediate neighborhood. The sales cited are believed to be the most reliable indicators of the subject's market value |
| hich are currently available. |
| |
| rdicated Value by Sales Comparison Approach \$ 163,000 |
| dicated Value by: Sales Comparison Approach \$ 163,000 Cost Approach (if developed) \$ N/A Income Approach (if developed) \$ N/A |
| he Sales Comparison Analysis was given most weight because it reflects the actions of buyers and sellers in the current |
| parket. The Cost Approach was considered but not utilized due to an exterior-only inspection. The Income Approach was |
| onsidered but not utilized as the subject is located in an area of primarily owner-occupied, single family residences. |
| his appraisal is made X as is, subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been |
| ompleted, subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or subject to the |
| ollowing required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair. |
| his appraisal is made "As-Is" with no conditions. |
| lased on a visual inspection of the exterior areas of the subject property from at least the street, defined scope of work, statement of assumptions and limiting |
| onditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is |
| 163,000 as of 6/03/09 , which is the date of inspection and the effective date of this appraisal. |
| terior-Only 5/2007 This form may be reproduced unmodified without written permission, however, Bradford Technologies, Inc. must be acknowledged and credite |
| Dec. 0 of 40 |

| | | Exterio | -Only Inspection | Residential Appraisal Report |
|--------------------|---|-----------------------|----------------------------------|--|
| See belo | w for document/ins | strument #'s | , days on the market a | and MLS #'s for all comparable sales: |
| Comp 1: | 090226-05983 | 58 +/- | MLS #887200 | |
| | 090326-01884 | 100 +/- | MLS #882885 | |
| | 090327-03633 | 146 +/- | MLS #849702 | The state of the s |
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| Adjustm: | ents made in the S | ales Compa | arison Analysis are bas | sed on analysis of MLS information, County Assessor records, |
| ohearvat | tions from the stree | et conversa | tions with professional | is (Realtors and licensed real estate appraisers) active in the |
| local rea | l estate market the | e annraiser' | s general and local ma | arket experience, and extraction. Assessments for the |
| adiuetma | ente include a visu: | at inspection | n from not only the from | nt of the comparable sales, but also to the sides and rear or |
| the com | parable sales to th | e extent pos | ssible by observation fr | rom the street, adjacent streets and nearby side streets. |
| 1 | 04 | inates ant - / | f any) are based the a | ppraiser's general and local market experience, extraction, |
| Location | i, Site and View ad | justments (i | tore and licensed real | estate appraisers) active in the local real estate market, |
| obconia | tions from the street | et and anat | vsis of MLS records ar | nd County Assessor records. The adjustments are not based |
| cololy or | seguare footage h | ut rather on | each site's estimated | site value, reflecting current and previous analyses of value |
| natterne | land sales and de | evelonment | costs in the neighborh | ood, after consideration of all known items of dissimilarity |
| including | a cizo view amenit | iae (if annlic | able) configuration/ut | ility, street orientations, street improvements, and location |
| within th | e subject's genera | I neighborh | ood and immediate se | tting (general development in proximity to the sale cited). |
| | | | | the beating to attempt (a) the bankruptcy judge(s) and the |
| | | raisal report | include the owner(s), | the bankruptcy attorney(s), the bankruptcy judge(s) and the |
| bankrup | tcy court(s). | | | |
| The en | rainer applied the | definition of | market value by utilizi | ng sales in the which the buyer and seller are typically |
| motivate | ad and are well info | ormed or we | II advised, allowing a r | reasonable exposure time in the open market, with payment |
| made in | torme of cash in l | LS dollars | and without special or | creative financing or sales concessions granted by anyone |
| associa | ted with the sale; t | he definition | of market value applic | ed is sourced from the 2008-2009 Edition of USPAP. |
| | | | | |
| | | | COST APPROAC | HTO VALUE (If applicable) |
| Support fo | or the opinion of site value | e (summary of c | omparable land sales of other | r methods for estimating site value) N/A |
| | | | | |
| | | | | |
| ESTIMAT | ED REPRODUCT | IONOR | REPLACEMENT COST NEW | OPINION OF SITE VALUE =\$ |
| | f cost data | | | Dwelling Sq. Ft. @\$ =\$ |
| Quality rat | ing from cost service | | ective date of cost data | Sq. Ft. @\$ =\$ |
| Commen | ts on Cost Approach (gro | ss living area ca | alculations, depreciation, etc.) | C- F- Ct |
| N/A | | | | Garage/Carport Sq. Ft. @ \$ =\$ Total Estimate of Cost-new =\$ |
| N/A | | | | Total Estimate of Cost-new =\$ Less Physical Functional External |
| . | | | | Depreciation =\$ (|
| | | | | Depreciated Cost of Improvements =\$ |
| | | | | "As-is" Value of Site Improvements =\$ |
| <u> </u> | | | | |
| Estimate | d Remaining Economic L | ife (HUD and V | A only) | Years Indicated Value By Cost Approach =\$ |
| - | | | INCOME APPROA | CH TO VALUE (if applicable) |
| Estimate Summar | d Monthly Market Rent \$ | | X Gross Multiplier | =\$ N/A Indicated Value by Income Approach |
| Summar | y of Income (including su | pport for market | rent and GRM) N/A | |
| | | | DOO SECT INCORDS | TION FOR PUDs (if applicable) |
| le the d- | veloper/huilder in control | of the Homeou | | Yes No Unit type(s) Detached Attached |
| Provide 6 | the following information | for PUDs ONLY | if the developer/builder is in c | control of the HOA and the subject property is an attached dwelling unit. |
| | ame of Project | O. 1 ODS OITE | and developed being of the | |
| | mber of phases | Total nui | mber of units | Total number of units sold |
| Total nui | mber of units rented | Total nu | mber of units for sale | Data source |
| Was the | project created by the co | nversion of exis | ting building(s) into a PUD? | Yes No If Yes, date of conversion. |
| Does the | | المقامين ممثلا منياسك | 1 Du Date | mo. |
| | e project contain any mult | i-aweiling units | Yes No Data sou | |
| Are the u | e project contain any mun units, common elements, | and recreation | facilities complete? Yes | No If No, describe the status of completion. |
| Are the | e project contain any muli units, common elements, | and recreation | racilities complete? Yes | |
| Are the | units, common elements, | and recreation | facilities complete? Yes | No if No, describe the status of completion. |
| Are the | e project contain any muli units, common elements, common elements leasec | and recreation | facilities complete? Yes | |
| Are the | units, common elements, | and recreation | facilities complete? Yes | No if No, describe the status of completion. |
| Are the | units, common elements, | and recreation | racilities complete? Yes | No if No, describe the status of completion. |

This appraisal report is subject to the scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a visual inspection of the exterior areas of the subject property from at least the street, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

The appraiser must be able to obtain adequate information about the physical characteristics (including, but not limited to, condition, room count, gross living area, etc.) of the subject property from the exterior-only inspection and reliable public and/or private sources to perform this appraisal. The appraiser should use the same type of data sources that he or she uses for comparable sales such as, but not limited to, multiple listing services, tax and assessment records, prior inspections, appraisal files, information provided by the property owner, etc.

DEFINITION MARKET VALUE: As per Fannie Mae the definition of market value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

- 1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
- 2. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- 3. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
- 4. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing this appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
- 5. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.
- 6. The subject was inspected via an exterior-only inspection from the street, physical observations from the street, information in County Assessor records and information in MLS records (if available) with no physical inspection of neither the interior of the subject's structure nor a complete physical inspection of the exterior of the subject's structure and rear portion of the subject's site and rear and side yards.

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

- 1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
- 2. I performed a visual inspection of the exterior areas of the subject property from at least the street. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
- 3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
- 4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
- 5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
- 6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
- 7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
- 8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
- 9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
- 10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
- 11. I have knowledge and experience in appraising this type of property in this market area.
- 12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
- 13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
- 14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
- 15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
- 16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
- 17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
- 18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
- 19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.

- 20. I identified the client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.
- 21. I am aware that any disclosure or distribution of this appraisal report by me or the client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.
- 22. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.
- 23. The Cost Approach to value was considered but not utilized due to an exterior-only physical inspection of the subject property, resulting in insufficient information available to the appraiser to provide an accurate and meaningful approach to value.
- 24. The Income Approach to value was considered but not utilized as the subject is owner-occupied and located in an area of primarily owner-occupied, single family residences, with typical home buyers within the subject's neighborhood purchasing homes as owner-occupied, single family residences.
- 25. The subject was inspected via an exterior-only inspection from the street, physical observations from the street, information in County Assessor records and information in MLS records (if available) with no physical inspection of neither the interior of the subject's structure nor a complete physical inspection of the exterior of the subject's structure and rear portion of the subject's site and rear and side yards.

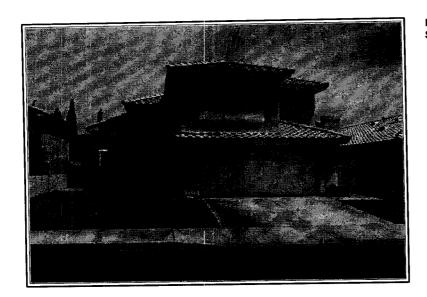
SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

- 1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
- 2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
- 3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
- 4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
- 5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

| | SUPERVISORY APPRAISER (ONLY IF REQUIRED) |
|---|--|
| APPRAISER | SUPERVISORT AFFIXIOER (ONET II REGUIRED) |
| Signature John Millians | Signature |
| Name Scott L. Huizenga | Name |
| Company Name Scott L. Huizenga | Company Name |
| Company Address 3268 Shadow Bluff Avenue | Company Address |
| Las Vegas, NV 89120 | |
| Telephone Number 702-735-5952 | Telephone Number |
| Email Address Scotthuizenga@lvcoxmail.com | Email Address |
| Date of Signature and Report 6/17/09 | Date of Signature |
| Effective Date of Appraisal 6/03/09 | State Certification # |
| State Certification # A.0000783-CR | or State License # |
| or State License # | State |
| or Other (describe) State # | Expiration Date of Certification or License |
| State NV | |
| Expiration Date of Certification or License 9/30/10 | |
| | SUBJECT PROPERTY |
| ADDRESS OF PROPERTY APPRAISED | |
| 6908 White Lakes Avenue | Did not inspect exterior of subject property |
| Las Vegas, NV 89130 | Did inspect exterior of subject property from street |
| 400.000 | Date of Inspection |
| APPRAISED VALUE OF SUBJECT PROPERTY \$163,000 | |
| CLIENT | COMPARABLE CALES |
| Name Randolph H. Goldberg, Esq., P.C. | COMPARABLE SALES |
| Company Name | Did not inspect exterior of comparable sales from street |
| Company Address 4000 S. Eastern Avenue, Suite 200 | Did not inspect exterior of comparable sales from street |
| Las Vegas, NV 89119 | |
| Email Address randolphgoldberg@yahoo.com | Date of Inspection |

Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 Page 12 of 18 SUBJECT PHOTO ADDENDUM File No. 12534613003

| Borrower PECKHAM, JESSE | | | | | | |
|-----------------------------|--------------------|---------|----------------|-----------|----------------|-----------------|
| Property Address 6908 White | Lakes Avenue | | 0.1. | NV | Zip Code | 89130 |
| City Las Vegas | County | Clark | State | | | |
| | oldberg, Esq. P.C. | Address | 4000 S. Easten | n Avenue, | Suite 200, Las | Vegas, NV 89119 |



FRONT VIEW OF SUBJECT PROPERTY

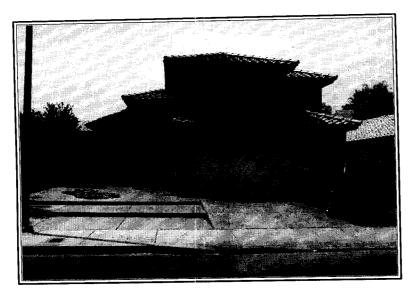


STREET VIEW OF SUBJECT PROPERTY

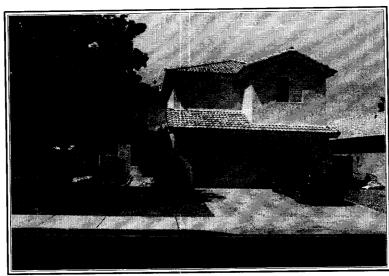
Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 Page 13 of 18

COMPARABLES 1-2-3

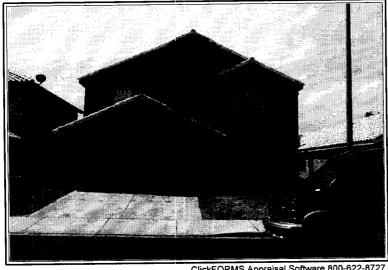
| Borrower PECKHAM, JESSE | | | | | - |
|-------------------------------------|-------|-----------------|---------|-------------------|----------------|
| Property Address 6908 White Lakes A | Clock | State | NV | Zip Code | 89130 |
| City Las Vegas Co | only | 4000 S. Eastern | Avenue, | Suite 200, Las Vo | egas, NV 89119 |



COMPARABLE SALE # 6813 Rancho Santa Fe Drive Las Vegas, NV 89130



COMPARABLE SALE # 5629 Grand Entries Drive Las Vegas, NV 89130



ClickFORMS Appraisal Software 800-622-8727

COMPARABLE SALE # 7205 London Bridge Avenue Las Vegas, NV 89130

Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 Page 14 of 18 ASSESSOR RECORD File No. 12534613003

Borrower PECKHAM, JESSE

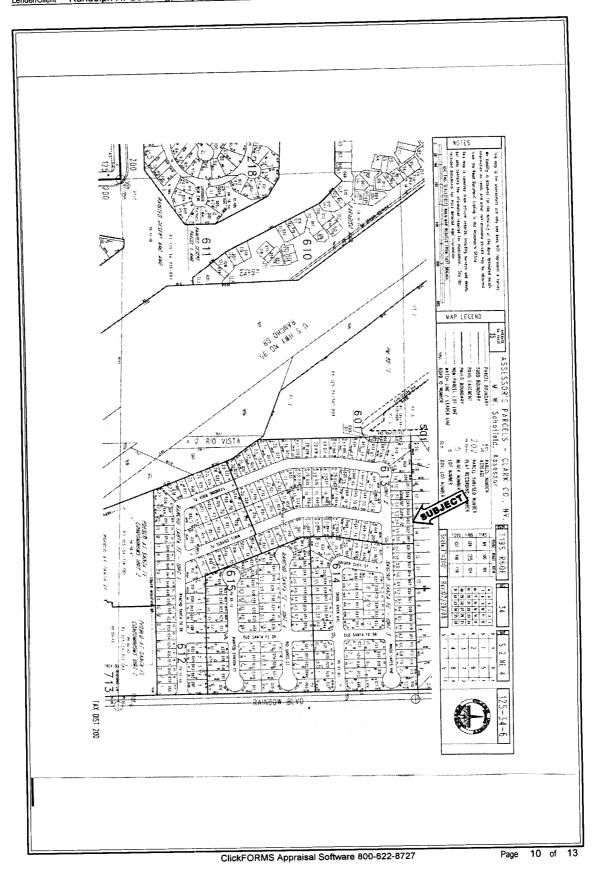
Property Address 6908 White Lakes Avenue
City Las Vegas County Clark State NV Zip Code 89130

Lender/Client Randolph H. Goldberg, Esq. P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119

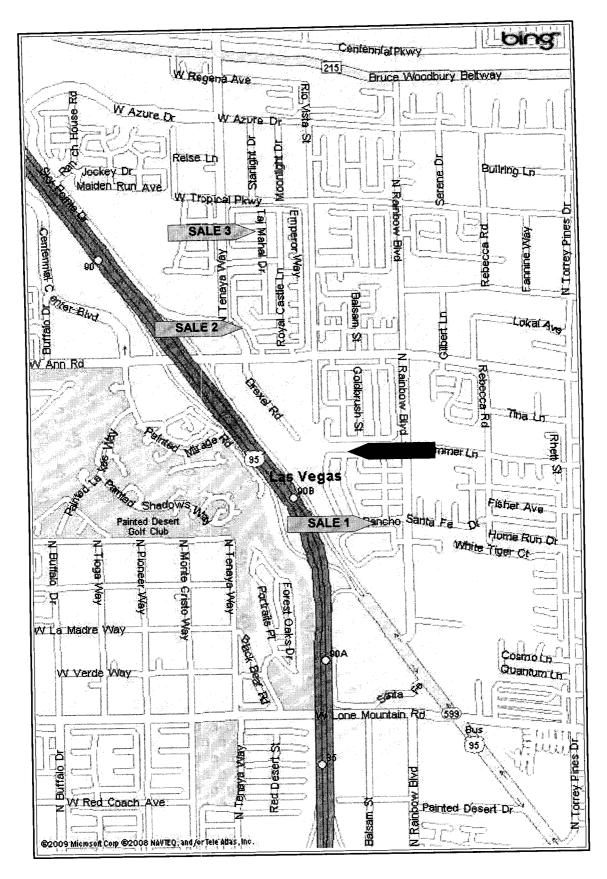
| | CLARK COUN' | Y PROPERT | ry. | | | | | | |
|--|---------------------------------------|---------------------------|------------------------|------------------------------|----------------------|---------------------------|------------------|----------|--|
| Parcel # | 125-34-613-003 | | | WHITE LAKES VEGAS | AVE | Zip Cd | 89130-165 | 54 | |
| TN-RG-SE | 19- 60.0- 34 | Ta | x Dist LAS | VEGAS CITY | | ReAssd | 2008 05/25/09 | | |
| Tot Value GEO 1d | \$97,448 PT SE4 NE4 19-60.0-34 | La | nd Use 110 | 0010001/SFR | | Update Status | 05/25/09 | | |
| | | | ASSESSOR DI | | CANTA FE (FE | -0) | | | |
| File-Page Assr Lot | PB 0060-0081 S4 Biock | | Subdivision 4 Phase | 1084/ RANCHO | Bidg | Unit | | | |
| Assr Apt | Parcel | | Area | _ | Tract | Outlo | t | | |
| Assr Desc | RANCHO SANTA FE-UNI LOT 54 BLOCK 1 | T 2 PLAT BO | OK 60 PAGE 8 | 1 | | | | | |
| | OWNER & DOC | INFORMATIO | N | ETAL. | DOC DATE | DOC NUMBER 2004060702 | | MUL O | |
| Owrier Nam 2nd Owner | e PECKHAM JESSE G | | | N | 06/07/04 05/24/01 | 2004060702 | | 0 | |
| | (S) 6908/ WHITE LAKE | S/ AV | | | | | _ | | |
| City Prev Owner | LAS VEGAS JONES DEREK L | | State N | ٧ | Zip Code | 89130- 165 | • | | |
| Own Phone | | | AND 8 BUILDING | ************ | Tenant Phone | | | | |
| Land Value | \$43750 | 12 | AND A BUILDING | DEFORMATION | | Nuisance | N | | |
| FrontxOpth | 45×105 | | | | | Ma trata | | | |
| Acres Lot SqFt | 0.11 4725 | Trregular Lindrg Util | ٧ | Adq Parking Rec Area | Y N | Str Lights Curb Guttr | Y | | |
| Topography | LEVEL | Str Paved | Y | Sidewalks | Y | Traffic | AVERG | | |
| Schools | RESNBL DIS | View | | M M | 22.05 | Landscapng | MODRT | | |
| Shopping Impr Value | RESNBL DIS \$53,698 | Act Yr Bit | 1995 | Metro Map Carpet | 23- 85 80 % | Area Tot Rooms | 7 | | |
| Type Style | 2 STORY | Eff Yr Bit | 1995 | Ceramic TI | 2 % | Bedrooms | 4 | | |
| Architectu Ext Wall | FRM STUCCO | Cost Class Units | FAIR 1 | Vinyl Tile Hardwood | 18 % | Bathrooms Family Rms | 2.50 | | |
| Ext Wall Roof Matri | COMP SHNGL | Home Auto | | Gentri Vac | N | Formal Din | N | | |
| Flooring | CONC | Security | N | BI Refrig | N | Fireplaces | | | |
| Heat Systm Air Cond | FORCE AIR CENT COOL | Intercom Range Fan | N Y | BI Micro Trash Cmpt | N N | Garbg Disp Dishwasher | Y | | |
| Centri Air | 100 % | Range Ove | | | | | | | |
| LindagAma | 1823 | First Fir | PROPERTY SUE 913 | | 6 | Garage 44 | 1 | | |
| LivingAnza Building i Yotal Bidg | 2264 2264 | | 910 | Porch 2 Porch 3 | • | Carport Storage | • | | |
| Pool (Y) Fence | 450 | Basement U | | Paving 1 1 Paving 2 | /674 | Deck 30 | 6 | | |
| | | | EXTRA FEATURE | | | | | | |
| Pool Heatr Jacoz/SepJ | ¥ | Tennis Cts Tris Lights | N | Prch/Patio 6 Prch Cover 5 | | SprinkirF AV SprinkirR | ŧ | | |
| Deck Fence | KOOF DECK | Tris Fence Oth | N | Pron Deck 1 | | Other | | | |
| | PRICE | DATE | SALES & LOAN | INFORMATION PE | PCT OW | N DT | | | |
| MLS Sale County 1 | \$236,000 | 06/01/04 | | DED VALUE | | | | | |
| County 2 County 3 | \$151,000 \$126,750 | 05/01/01 03/01/95 | R/RECOR | DED VALUE DED VALUE | | | | | |
| 333, 3 | 422 3,722 | | LOAN AMOUNT | LENDER 0000 | TYPE C | INT TT | n.e 32 | | |
| Curr | TOTAL TAX \$2122.96 | TOTAL ASSO \$97,448 | IMPRV \$53,698 | LAND \$43,750 | PERS P | ROP YEAR 2009 | EXEMPTION | 4 | |
| Pretv T Rate | \$2061.13 3.2714 | \$93,769 Tot SA Bal | \$50,019 | \$43,750 | PP Codes | 2008 | | | |
| Delinq | | Transfer/R | | | Deederl/R | | | | |
| | INFORMAT | ON DEEMED R | ELIABLE BUT NO | T GUARANTEED | | 06 | /03/09 | 08:23 AM | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
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| | | | | | | | | | |

Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 Page 15 of 18 PLAT MAP File No. 12534613003

Borrower PECKHAM, JESSE
Property Address 6908 White Lakes Avenue
City Las Vegas County Clark State NV Zip Code 89130
Lender/Client Randolph H. Goldberg, Esq. P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 891

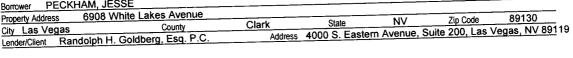


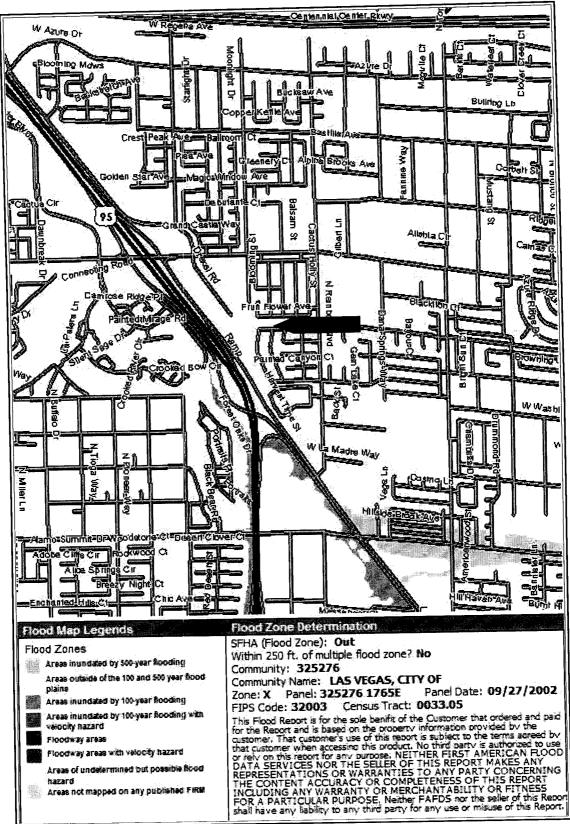
| Borrower PECKHAM, JESSE | | | | | | |
|--------------------------------|--------------------------|---------|-------------------|------------|------------------|--------------|
| Property Address 6908 White La | | Clark | State | NV | Zip Code | 89130 |
| City Las Vegas | County erg, Esg. P.C. | Address | 4000 S. Eastern A | venue, Sui | te 200, Las Vega | as, NV 89119 |



Case 09-20634-bam Doc 17 Entered 07/09/09 13:16:39 Page 17 of 18 12534613003 FLOOD MAP ADDENDUM File No.

Borrower PECKHAM, JESSE 6908 White Lakes Avenue Property Address 89130 Zip Code NV Clark State County City Las Vegas





Entered 07/09/09 13:16:39 Page 18 of 18 Case 09-20634-bam Doc 17 RESUME

12534613003 File No.

Borrower PECKHAM, JESSE Property Address 6908 White Lakes Avenue 89130 Zip Code ΝV State Clark County Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119 City Las Vegas Lender/Client Randolph H. Goldberg, Esq. P.C

Scott L. Huizenga 3268 Shadow Bluff Avenue Las Vegas, Nevada 89120

License:

State of Nevada Department of Commerce

Certified Residential Appraiser, Certificate #A.0000783-CR,

Issued 10/02/08, Expires 9/30/10. Primary market is Clark County, Nevada, encompassing Las Vegas, North Las Vegas, Henderson, Boulder City, Red Rock Canyon, Blue Diamond, Mountain Springs, Mt. Charleston, Logandale Overton/Moapa, Mesquite, Laughlin, Searchlight, Indian Springs

and Sandy Valley; and Pahrump in Nye County, Nevada.

Experience:

Independent Fee Appraiser and Consultant, from 10/95 to

the present

Partner, MESA Appraisal, from 3/93 to 9/95

Independent fee appraiser with Collins E. Butler & Associates

from 3/93 to 7/93

Independent fee appraiser with Decker & Associates from 4/90 to

6/93

Education:

University of Nevada, Las Vegas

Bachelor of Science, Business/Administration

Major in Accounting, 1981

Real Estate Courses:

Appraisal Institute professional education credit:

-Real Estate Appraising Principles -Basic Valuation Procedures

-Residential Valuation

-Capitalization Theory & Techniques, Part A -Capitalization Theory & Techniques, Part B -Valuation Analysis and Report Writing -Case Studies in Real Estate Valuation

-Standards of Professional Practice, Part A -Standards of Professional Practice, Part B

Appraising related, continuing education credit: -Fair Lending & The Appraiser-Fair Lending &

Institutional Affiliated Parties -Practical Overview of Evaluations and Other

Limited Scope Assignments

-Appraisal Regulations, Standards & Ethics

-Real Estate Auctions

-Uniform Standards of Professional Appraisal Practice (USPAP), Update and Review

-The 29th Annual Litigation Seminar

University of Nevada, Las Vegas courses:

-Principles of Real Estate

-Real Estate Law

Professional Affiliations:

Five Star Appraisers